

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Roanoke Division

JOHN DOE,

Plaintiff,

v.

CIVIL ACTION NO. 7:18cv170
Judge Elizabeth K. Dillon

VIRGINIA POLYTECHNIC INSTITUTE
AND STATE UNIVERSITY, TIMOTHY SANDS,
FRANK SHUSHOK, JR., ENNIS MCCRERY,
CAROLINE GREEN, and KYLE ROSE,

Defendants.

MOTION TO STAY DISCOVERY

Defendants, by counsel, pursuant to Rule 26(c) of the Federal Rules of Civil Procedure move for order staying discovery until Plaintiff has been permitted to proceed under a pseudonym and Defendants have had the opportunity to file dispositive motions that, if granted, will dispose of the entire litigation. Defendants certify that they have conferred with Plaintiff's counsel and the parties have been unable to agree to voluntarily stay discovery.

It is well-settled that district courts have broad discretion to stay discovery pending resolution of a motion to dismiss. *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). In this particular matter, Plaintiff filed and served a complaint under a pseudonym without first seeking leave of this Court. Defendants will file motions to dismiss the entire matter on meritorious grounds once the case is properly before the Court. Furthermore, Defendants assert that they will work to expediate

discovery if their motions to dismiss are denied. An order under Rule 26(c) to stay discovery pending determination of a motion to dismiss is an appropriate exercise of a court's discretion under the circumstances of this case. *See Thigpen v. United States*, 800 F.2d 393, 396–97 (4th Cir. 1986)

WHEREFORE, Defendants move for an order staying discovery until this case is properly before the Court and they have had an opportunity to file dispositive motions to dismiss and otherwise respond to the Complaint.

Respectfully submitted,

VIRGINIA POLYTECHNIC INSTITUTE
AND STATE UNIVERSITY, TIMOTHY
SANDS, FRANK SHUSHOK, JR., ENNIS
MCCRERY, CAROLINE GREEN, and KYLE
ROSE

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CERTIFICATE OF SERVICE

I hereby certify that, on this 26th day of October, 2018, the foregoing MOTION TO STAY DISCOVERY was filed electronically with the Clerk of Court using the CM/ECF system, which will send notification of such filing (NEF), to the following:

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